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REDACTED, FOR PUBLIC INSPECTION

May 22, 2017

VIA ELECTRONIC FILING AND HAND-DELIVERY

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Re: *Structures and Practices of the Video Relay Service Program, CG Docket No. 10-51; Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123*

Dear Ms. Dortch,

In accordance with the *Second Protective Order* for the above-captioned proceedings, ZVRS Holding Company ("ZVRS Holding"), the parent of CSDVRS, LLC d/b/a ZVRS ("ZVRS") and Purple Communications, Inc. ("Purple"), herein submits a redacted version of the attached ex parte letter in the above-captioned proceedings.

ZVRS Holding has designated for highly confidential treatment the marked portions of the attached documents pursuant to the *Second Protective Order* in CG Docket Nos. 03-123 and 10-51.¹ ZVRS Holding's ex parte letter includes granular data with respect to its costs for various categories of both allowed and additional costs. These materials fall under Item 3 in Appendix A of the *Second Protective Order*: "Information that provides granular information about a Submitting Party's past, current or future costs, revenues, marginal revenues, or market share, and future dividends."

Pursuant to the protective order and additional instructions from Commission staff, ZVRS Holding is filing a redacted version of the document electronically via ECFS, one copy of the Highly Confidential version with the Secretary, two copies of the redacted version with the Secretary, and sending copies of the highly confidential version to Eliot Greenwald, Robert Aldrich, and Michael Scott of the Consumer and Governmental Affairs Bureau and the TRS Reports mailbox.

¹ *Structures and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Second Protective Order, DA 12-858, 27 FCC Rcd. 5914 (Cons. & Gov't Affs. Bur. 2012).

Please contact me if you have any questions or require any additional information.

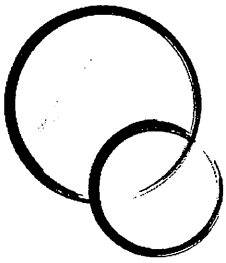
Sincerely,

/s/_____

Gregory Hlibok
Chief Legal Officer
ZVRS Holding Company
Parent company of CSDVRS, LLC d/b/a
ZVRS and Purple Communications, Inc.
595 Menlo Drive
Rocklin, CA 95765

Attachment

cc: Eliot Greenwald
Robert Aldrich
Michael Scott
TRSReports@fcc.gov



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May 22, 2017

VIA HAND DELIVERY AND ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation: CG Docket Nos. 10-51 and 03-123

Dear Ms. Dortch,

On May 19, 2017, Michael Flanagan, Chief Financial Officer for ZVRS Holding Company (“ZVRS Holding”), parent company of CSDVRS, LLC d/b/a ZVRS (“ZVRS”) and Purple Communications, Inc. (“Purple”), together with outside counsel Jennifer Richter and Gregory Simon, spoke on the phone with Amy Bender, Legal Advisor to Commissioner O’Rielly, and separately with Claude Aiken, Legal Advisor to Commissioner Clyburn, to discuss the Further Notice of Proposed Rulemaking in the above-referenced proceedings.¹ On May 22, 2017, Flanagan and outside counsel also spoke with Eliot Greenwald, Robert Aldrich, and Michael Scott of the Consumer & Governmental Affairs Bureau, and Dana Shaffer of the Office of the Managing Director.

ZVRS and Purple led each call by discussing their alarm a couple of weeks ago when they realized that Rolka Loube's cost data submission to the Commission was wrong—at least with respect to ZVRS and Purple—and that Rolka Loube based its rate proposal on this incorrect data. The companies explained that they filed a supplement to the record on May 11, 2017,² to correct Rolka Loube’s errors in compiling the cost and demand data. It is essential that the Commission has before it information that accurately reflects each provider’s costs of providing Video Relay Service (“VRS”).

Next, ZVRS and Purple presented an analysis of the various rate proposals in this proceeding against projected 2017 cost and demand data for each provider. A copy of that analysis is attached hereto.³ The companies explained that under the Joint Rate Proposal,⁴ VRS

¹ *Structure and Practices of the VRS Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, and Order, 32 FCC Rcd. 2436 (Mar. 23, 2017) (the Further Notice of Proposed Rulemaking, individually, the “FNPRM”).

² See Letter from Gregory Hlibok, Chief Legal Officer, ZVRS Holding Company, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 10-51 & 03-123 (filed May 11, 2017).

³ See Attachment. ZVRS and Purple conducted the analysis based on the companies’ own projected cost and demand data as reported to Rolka Loube and publicly available information as to the competitive landscape of

provider compensation in 2017 will more closely correspond to each provider's costs than the rates under the glide path while reducing the total annual cost to the TRS Fund. The companies noted, however, that even under the Joint Rate Proposal, ***** BEGIN HIGHLY CONFIDENTIAL *****

***** END HIGHLY CONFIDENTIAL ***** ZVRS and Purple explained that as a result, the Joint Rate Proposal is the most viable option before the Commission, but even it is insufficient to achieve the Commission's goals in this proceeding of supporting "competition in the marketplace pending further structural reforms," and giving all "VRS providers the long-term stability in rates to make investment decisions."⁵ ZVRS and Purple walked through the companies' ***** BEGIN HIGHLY CONFIDENTIAL ***** ***** END HIGHLY CONFIDENTIAL ***** and discussed the support that is needed if the Commission wants to ensure that one provider does not control the entire VRS market in two or three years. The companies also highlighted the excess revenue under each proposal, estimated to be between ***** BEGIN HIGHLY CONFIDENTIAL ***** ***** END HIGHLY CONFIDENTIAL ***** for one provider, at the expense of the TRS Fund and to the competitive detriment of the other providers.

Finally, ZVRS and Purple discussed the harmful assertion of Rolka Loubé that the Commission should collapse the rate tiers on ZVRS and Purple and offer just one tier at a rate ***** BEGIN HIGHLY CONFIDENTIAL ***** ***** END HIGHLY CONFIDENTIAL ***** in order to encourage the companies to integrate more quickly. Another provider has echoed this harmful suggestion that the Commission treat ZVRS and Purple as a single entity for determining the applicable rate.⁶ ZVRS and Purple pointed out that the Commission agreed in a recent Order and Consent Decree that the companies would be given three years to integrate.⁷ The Consent Decree specifically provides that Purple and ZVRS will "continue to offer VRS under their existing brands as wholly owned subsidiaries of ZVRS Holding until the businesses are integrated" and that "Purple and [ZVRS] will continue to operate and submit Requests for Reimbursement to the TRS Fund Administrator as separate VRS

the VRS program. The cost data in the analysis is the same as the supplemental filing that the companies entered into the record on May 11, 2017, with the addition of ZVRS and Purple's combined numbers. The companies also updated the formatting and added some explanatory notes about ZVRS and Purple's compensable and non-compensable costs.

⁴ See Letter from Paul C. Besozzi and Benjamin D. Tarbell, Squire Patton Boggs (US) LLP, Counsel to Purple Communications, Inc. to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 10-51 & 03-123 (filed Jan. 31, 2017) ("Joint Rate Proposal").

⁵ *FNPRM* at para. 88.

⁶ See Letter from John T. Nakahata, Counsel for Sorenson to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 10-51 & 03-123, at 4 (filed May 18, 2017) (proposing that "the ZVRS and Purple subsidiaries should together receive one allotment of Tier I minutes and one allotment of Tier II minutes, regardless of how those minutes split between the subsidiaries.").

⁷ See *Purple Communications, et al.*, Order and Consent Decree, FCC 17-10, at para. 9 (Feb. 15, 2017) ("Purple and CSDVRS will continue to offer VRS under their existing brands as wholly owned subsidiaries of ZVRS Holding until the businesses are integrated, but no more than three years after the Effective Date.").

providers, each under its own certification” until integration is complete.⁸ Rolka Loube and other commenters have no standing to undo that Commission agreement. Moreover, the Commission had access to detailed integration information from ZVRS concerning the steps involved in the integration and the time that it would take—information to which neither Rolka Loube nor others is privy. The agreements in the Consent Decree that ZVRS and Purple will continue to operate separately and bill the Administrator separately until they can be integrated, which will take time and tremendous hard work, are meaningless if the rates are now collapsed on the companies into one rate. Consequently, suggestions to collapse the rate tiers on ZVRS and Purple in order to encourage faster integration must be disregarded.

Respectfully submitted,

/s/
Gregory Hlibok
Chief Legal Officer
ZVRS Holding Company
595 Menlo Drive
Rocklin, CA 95765

Attachment

cc: Amy Bender
Claude Aiken
Eliot Greenwald
Robert Aldrich
Michael Scott
Dana Shaffer
TRSReports@fcc.gov

⁸ *Id.* at para. 16 (“The Companies represent and warrant that for up to thirty-six (36) months following the Effective Date, Purple and CSDVRS will continue to operate and submit Requests for Reimbursement to the TRS Fund Administrator as separate VRS providers, each under its own certification.”).

ATTACHMENT
REDACTED IN ITS ENTIRETY